

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

November 9, 2011

Lyle W. Cayce  
Clerk

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No. 09-51133

Summary Calendar

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UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

NYREE PETTAWAY,

Defendant-Appellant

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:09-CR-549-1

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Before HIGGINBOTHAM, DAVIS, and ELROD, Circuit Judges.

PER CURIAM:\*

The attorney appointed to represent Nyree Pettaway has moved for leave to withdraw and has filed a brief in accordance with *Anders v. California*, 386 U.S. 738 (1967), and *United States v. Flores*, 632 F.3d 229 (5th Cir. 2011). Pettaway has filed motion to file an out-of-time direct appeal, which we construe as a motion to file an out-of-time response and GRANT. Her motion for appointment of substitute counsel is DENIED.

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 09-51133

We have reviewed counsel's brief and the relevant portions of the record reflected therein, as well as Pettaway's response. We concur with counsel's assessment that the appeal presents no nonfrivolous issue for appellate review. Accordingly, counsel's motion for leave to withdraw is GRANTED, counsel is excused from further responsibilities herein, and the APPEAL IS DISMISSED. *See* 5TH CIR. R. 42.2.